IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

W.P.NO.2326 OF 2000

ALONG WITH

NOTICE OF MOTION NO.1 OF 2004
IN
W.P.NO.2326 OF 2000

M/s.Anurag Sites & Anr. ..Petitioners

Vs.

Municipal Corporation of
Gr.Mumbai and Ors. ..Respondents

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Mr.J.Reis Senior Counsel with Ms.Nita G. Solanki Adv. for Petitioners
Mr.P.G.Pravin Adv. for Respondent No.4
Mrs.A.K.Savla Adv. for Respondent Nos.2 and 3
Mrs.S.M.Dandekar AGP for Respondent No.1

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CORAM: F.I.REBELLO AND
SMT.V.K.TAHILRAMANI,JJ.
DATE : AUGUST 7,2006

P.C.

1. The petition earlier was filed for various reliefs. As in the meantime, during the pendency of this petition, the Corporation introduced guidelines for display of advertisements including hoardings on Corporation's property, the petition was amended and prayer clause was introduced which reads as under:

. ‘‘The Respondent Nos.1 to 3 by mandatory injunction be ordered and directed to invite tenders in respect of petition site within a fixed period under the new Policy and Guidelines of Respondent No.2 on December, 2000 under Section 328 and 328A of the B.M.C.Act for the hoarding."

2. The petitioner has taken out Notice of Motion No.1 of 2004 wherein relief prayed for is, for inviting fresh tenders as the period of three years has already expired. Considering that we have directed that the Motion along with Petition be heard as the petition involves a narrow controversy and deciding the Motion will have the effect of deciding the Petition.

3. The clauses with which we are concerned are clauses 17(a) and (b) which read as under:

. "**17. HOARDINGS ON CORPORATION PROPERTIES:**

. (a) Existing hoardings, on Corporation properties, shall be allowed by inviting tenders only.

. (b) In case of a first finder agency of any advertising site on Corporation property, the Commissioner may permit the display of advertisement to the agency for a maximum period of three years on payment of ground rent and advertisement fees as fixed by the Commissioner and on such terms and conditions as deemed fit, provided such advertisement fulfils the policy guidelines. Upon expiry of the said period of permission, the agency shall hand over the site with the structure to the Competent Authority. Thereafter, display of advertisement on the said site would be allowed by inviting tenders only."

4. Admittedly, the property was acquired by the Corporation sometime in 1995-96. The exact date is

not on record. The hoardings in favour of Respondent No.4 was allowed sometime in January 1996. In terms of Regulation 17(a) in respect of existing hoarding, on the coming into force of the guidelines, the hoarding sites had to be given only by inviting tenders. That has not been followed in the instant case.

5. On behalf of Corporation, the learned counsel points out that, that was not done in view of the resolution of the Improvements Committee dated 5.3.1957. Considering that Resolution is of 1957, we are unable to understand as to how after the Corporation itself has framed new policy as provided in clause 17, how the resolution of the improvements Committee of the year 1957 survives. In fact, the preface provides as under:-

. These Guidelines supersedes all other Guidelines issued in the past in this respect including "Policy and Procedure Advertisement Permits, 1996".

6. From this, it becomes clear, that what is in the field today, are the Guidelines of 2000. Considering that, in our opinion the petitioners have made out case in terms of amended petition and as per the amended prayer made in the petition to direct the Respondents to invite the fresh tenders. A body like the Respondent No.1 should get the best price for its properties and the proper procedure is to allot its properties for hoarding sites by auction to the highest bidder.

7. In that light, petition is made absolute in terms of prayer clause (a1). Respondent-Corporation to follow the law and complete the procedure within three months from today.

8. Petition along with Notice of Motion are disposed of accordingly.

[F.I.REBELLO, J.]

[SMT.V.K.TAHILRAMANI,J.]